

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JAMAR DAVIS,

Petitioner,

-against-

FEDERAL BUREAU OF PRISONS and  
WARDEN USP FLORENCE HIGH,

Respondent.

16-CR-339 (RMB)

**ORDER**

**I. Background**

On February 8, 2017, Davis pleaded guilty to one count of “using and carrying a firearm which was discharged during and in relation to a drug trafficking crime.” (Plea Hr’g Tr., dated Feb. 8, 2017, at 7:21-25, 8:11 (ECF No. 36).) On May 15, 2017, Davis was sentenced to 120 months of incarceration (which was the statutory mandatory minimum) followed by 5 years of supervised release. (Judgment, dated May 15, 2017, at 1-3 (ECF No. 52).). His Criminal History Category was V. (Presentence Investigation Report, dated May 1, 2017 (“PSR”), ¶ 35 (ECF No. 49).)

Davis submitted to the Court documents totaling 40 pages on December 13, 2023. (ECF No. 114). The Court construes pages 37–40 of Davis’ submissions as a petition under 28 U.S.C. § 2241 (“Petition”), in which he complains about the conditions of his confinement at USP Florence High in Colorado. (*See* Ptr.’s Ltr. (“Petition”) at 37–40 (ECF No. 114).) Davis contends, for example, that he was “not afforded the opportunity to buy hygiene” products and was forced to “take a shower/wash my mouth without the proper hygiene” from approximately July 2023 to at least September 2023 while at USP Florence. (*Id.* at 37, 39.)

The Government responded on January 4, 2024, pointing out that petitions challenging physical confinement under 28 U.S.C. § 2241 “must be filed in the district of incarceration,” i.e., in this case, Colorado and not the Southern District of New York. (Gov’t Ltr., dated Jan. 4, 2024, at 1 (citing *United States v. Padilla*, No. 18 Cr. 454 (KMB), ECF No. 371, at 2 (Mar. 25, 2022)). The Government states the Petition “should be transferred to the District of Colorado.” (*Id.* (citing *Rumsfeld v. Padilla*, 542 U.S. 426, 435, 442 (2004)) (internal quotation marks omitted).)

For the reasons stated below, the Petition is separated from the other submissions filed on December 13, 2023 and is being transferred to Jeffrey P. Colwell, Clerk of Court for the United States District Court for the District of Colorado.<sup>1</sup> A copy is also being sent to Charles A. Daniels, Warden at USP Florence High in Colorado.

## **II        Legal Standard**

Petitions under Section 2241 challenging an inmate’s current physical confinement are appropriately brought “in the district court for the district where the prisoner is in custody.” See *Sullivan v. United States*, 02-CV-4947, 2002 WL 32096584, at \*2 (E.D.N.Y. Dec. 6, 2002). “For [] habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also* 28 U.S.C. § 2241. And, “[c]ourts have consistently found it in the interest of justice to transfer habeas petitions when jurisdiction is lacking.” *Shehnaz v. Ashcroft*, No. 04 Civ. 2578 (DLC), 2004 WL 2378371, at \*4 (S.D.N.Y. Oct. 25, 2004) (citations omitted).

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<sup>1</sup> Any issues or arguments raised by the parties but not specifically addressed in this Order have been considered by the Court and rejected.

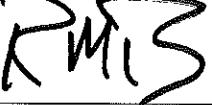
### **III. Analysis**

Davis' Petition challenges alleged lack of available hygiene after he was transferred to USP Florence in Colorado. (*See* Petition at 37). Davis is currently incarcerated in USP Florence High. *See* Federal Bureau of Prisons ("BOP"), *Inmate Locator*, <https://www.bop.gov/inmateloc/>. Accordingly, the Petition should be transferred to and resolved in the District of Colorado. *See Rumsfeld*, 542 U.S. at 443; *see also Shehnaz*, 2004 WL 2378371, at \*4.

### **IV. Conclusion & Order**

For the foregoing reasons, the Clerk of this Court is respectfully directed to: (i) sever the Petition [pages 37–40 of ECF # 114] from the other materials submitted by Davis on or about December 13, 2023; (ii) open a 28 U.S.C. § 2241 pro se civil case in this Court; and (iii) forthwith transfer the Petition, along with the Government's Response, dated January 4, 2024 [ECF No. 116], to Jeffrey P. Colwell, Clerk of Court for the United States District Court for the District of Colorado. The Southern District of New York Clerk of Court is also respectfully requested to mail a copy of this Order, along with the Petition and the Government's Response to Charles A. Daniels, Warden of USP Florence High (5880 State Highway 67, Florence, Colorado, 81223).

Date: New York, New York  
February 27, 2024

  
**RICHARD M. BERMAN, U.S.D.J**